

Assembly Bill No. 737

CHAPTER 136

An act to repeal and add Chapter 3 (commencing with Section 80) of Division 1 of the Harbors and Navigation Code, and to amend Section 531 of the Public Resources Code, relating to boating and waterways.

[Approved by Governor July 17, 2012. Filed with
Secretary of State July 17, 2012.]

LEGISLATIVE COUNSEL'S DIGEST

AB 737, Buchanan. Boating and Waterways: Harbors and Watercraft Commission.

(1) Existing law establishes the Department of Boating and Waterways in the Natural Resources Agency and charges the department with duties related to beach erosion, harbors, and recreational boat trails. Existing law establishes the Boating and Waterways Commission to provide advice to that department.

The Governor's Reorganization Plan No. 2 of 2012 (GRP 2) proposes to reorganize state departments and agencies to, among other things, transfer the Department of Boating and Waterways into the Department of Parks and Recreation as a division of that department and eliminate the Boating and Waterways Commission.

This bill would instead place the commission in the Department of Parks and Recreation within the Division of Boating and Waterways, and would prescribe the membership, functions, and duties of the commission.

(2) Existing law establishes the State Park and Recreation Commission in the Department of Parks and Recreation comprised of 9 members appointed by the Governor, subject to confirmation by the Senate, and requires that the members of the commission be selected from areas distributed throughout the state and because of their interest in park, recreation, and conservation matters, as prescribed.

This bill would also require that the members of the commission be selected because of their interest in boating and waterways.

(3) GRP 2 is proposed to become operative on July 1, 2013, if not disapproved by the Legislature in accordance with specified procedures.

This bill would become operative on July 1, 2013, but would only become operative if GRP 2 becomes effective.

The people of the State of California do enact as follows:

SECTION 1. Chapter 3 (commencing with Section 80) of Division 1 of the Harbors and Navigation Code is repealed.

SEC. 2. Chapter 3 (commencing with Section 80) is added to Division 1 of the Harbors and Navigation Code, to read:

CHAPTER 3. BOATING AND WATERWAYS ADVISORY BOARD

80. (a) The Harbors and Watercraft Commission and its successor, the Navigation and Ocean Development Commission, are continued in existence in the Department of Parks and Recreation and within the Division of Boating and Waterways as the Boating and Waterways Commission, but with only the powers and duties imposed upon it by this chapter.

(b) The Legislature finds all of the following:

(1) Recreational boating and recreational watercraft use continue to be popular activities enjoyed by Californians and others visiting the state.

(2) Harbors, docks, waterways, piers, and other similar water bodies or infrastructure governed by this chapter should remain open to all members of the public equally.

(3) Absent deliberate and thoughtful planning and regulation, those activities have the potential to be dangerous or deadly, difficult, and expensive for the general public to access and enjoy, and environmentally unsound.

(c) The Legislature hereby declares that effectively managed waterways and adequate facilities for the use of boating and watercraft vessels are essential for safe, accessible, and ecologically balanced boating and waterway recreation throughout the state.

(d) It is therefore the intent of the Legislature that:

(1) Existing boating and watercraft recreational areas, facilities, and opportunities should be expanded and managed in a manner consistent with this chapter, in particular, to maintain safe, publicly accessible, and sustained long-term use.

(2) New recreational boating and watercraft facilities, including harbors, docks, and piers, should be provided and managed pursuant to this chapter in a manner that will sustain long-term use by the public.

(3) Waterways, harbors, ports, piers, and other boating or watercraft infrastructure should be maintained to ensure sustainable long-term public utility.

(4) Boating and watercraft recreation should be managed in accordance with this chapter through financial assistance to local governments and joint undertakings with agencies of the United States and with federally recognized Native American tribes.

80.2. The commission shall be composed of seven members appointed by the Governor, with the advice and consent of the Senate. The members shall have experience and background consistent with the functions of the commission. In making appointments to the commission, the Governor shall give primary consideration to geographical location of the residence of members as related to boating activities and harbors. In addition to geographical considerations, the members of the commission shall be

appointed with regard to their special interests in recreational boating. At least one of the members shall be a member of a recognized statewide organization representing recreational boaters. One member of the commission shall be a private small craft harbor owner and operator. One member of the commission shall be an officer or employee of a law enforcement agency responsible for enforcing boating laws.

The Governor shall appoint the first seven members of the commission for the following terms to expire on January 15: one member for one year, two members for two years, two members for three years, and two members for four years. Thereafter, appointments shall be for a four-year term. Vacancies occurring prior to the expiration of the term shall be filled by appointment for the unexpired term.

80.6. Members of the commission may receive a salary for their services in an amount of one hundred dollars (\$100) for each day, up to a maximum of 14 days per year. A member of the commission may also be reimbursed for the actual and necessary expenses which are incurred in the performance of the member's duties.

80.8. The members of the commission may be removed from office by the Governor for inefficiency, neglect of duty, misuse of office, or misfeasance in office, in the manner provided by law for the removal of other public officers for like causes.

81. The commission shall, immediately after the effective date of this section, organize and elect from its members a chairman and a vice chairman who shall serve for one year or until their successors are elected and qualified. Annually thereafter, the commission shall elect a chairman and a vice chairman.

81.2. The commission shall adopt a seal.

81.4. No action shall be taken by the commission by less than a majority of its members.

81.6. The Department of General Services shall furnish suitable offices and equipment for the use of the commission.

81.8. The director shall act as the secretary of the commission.

82. The division, consistent with Section 82.3, and in furtherance of the public interest and in accordance therewith, shall have only the following duties with respect to the commission:

(a) To submit any proposed changes in regulations pertaining to boating functions and responsibilities of the division to the commission for its advice and comment prior to enactment of changes.

(b) To submit proposals for transfers pursuant to Section 70, loans pursuant to Section 71.4 or 76.3, and grants pursuant to Section 72.5 to the commission for its advice and comment.

(c) To submit any proposed project it is considering approving to the commission if that project could have a potentially significant impact on either public health or safety, public access, or the environment for the commission's advice and comment prior to approval by the division.

(d) To annually submit a report on its budget and expenditures to the commission for its advice and comment.

(e) To cause studies and surveys to be made of the need for small craft harbors and connecting waterways throughout the state and the most suitable sites therefore, and submit those studies and surveys to the commission for advice and comment.

82.3. The commission shall have the following particular duties and responsibilities:

(a) To be fully informed regarding all governmental activities affecting programs administered by the division.

(b) To meet at least four times per year at various locations throughout the state to receive comments on the implementation of the programs administered by the division and establish an annual calendar of proposed meetings at the beginning of each calendar year. The meetings shall include a public meeting, before the beginning of each grant program cycle, to collect public input concerning the program, recommendations for program improvements, and specific project needs for the system.

(c) To hold a public hearing to receive public comment regarding any proposed project subject to subdivision (c) of Section 82 at a location in close geographic proximity to the proposed project, unless a hearing consistent with federal law or regulation has already been held regarding the project.

(d) To consider, upon the request of any owner or tenant whose property is in the vicinity of any proposed project subject to subdivision (c) of Section 82, any alleged adverse impacts occurring on that person's property from activities undertaken pursuant to this code, and recommend to the division suitable measures for the prevention of any adverse impacts determined by the commission to be occurring, and suitable measures for the restoration of adversely impacted property.

(e) To review and comment annually to the division on the proposed budget of expenditures from the revolving fund.

(f) To review all plans for new and expanded local and regional waterways, piers, harbors, docks, or other recreational areas that have applied for grant or loan funds from the division prior to approval by the division.

(g) (1) With support and assistance from the division, to prepare and submit a program report to the Governor, the Assembly Committee on Water, Parks and Wildlife, the Senate Committee on Natural Resources and Water, the Senate Committee on Appropriations, and the Assembly Committee on Appropriations on or before January 1, 2013, and every three years thereafter. The report shall be adopted by the commission after discussing the contents during two or more public meetings. The report shall address the status of any regulations adopted or being considered by the division, any loan or grant that has been or is being considered for approval by the division pending the previous report, and a summary of resource monitoring data compiled and restoration work completed.

(2) A report required to be submitted pursuant to paragraph (1) shall be submitted in compliance with Section 9795 of the Government Code.

82.4. All meetings of the commission shall be open and public and all persons shall be permitted to attend any meetings of the commission.

82.6. All records of the commission shall be open to inspection by the public during regular office hours.

SEC. 3. Section 531 of the Public Resources Code is amended to read:

531. The members of the commission shall be selected from areas distributed throughout the state and because of their interest in park, recreation, conservation, and boating and waterways matters and, except for initial members of the commission, shall serve for terms of four years or until their successors are appointed and qualified.

SEC. 4. The repeal and addition of Chapter 3 (commencing with Section 80) of Division 1 of the Harbors and Navigation Code as set forth in Sections 1 and 2 of this act shall prevail over the provisions set forth in Section 278 of the Governor's Reorganization Plan No. 2 of 2012.

SEC. 5. (a) Sections 1, 2, and 3 of this act shall become operative only if the Governor's Reorganization Plan No. 2 of 2012 becomes effective.

(b) Except as otherwise provided in subdivision (a), Sections 1, 2, and 3 of this act shall become operative on July 1, 2013.